UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/607,601	06/27/2003	Mark Ronald Plesko	3382-64707	7614

26119   7590   07/14/2005

KLARQUIST SPARKMAN LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

EXAMINER
CHAVIS, JOHN Q

ART UNIT	PAPER NUMBER
2191	

DATE MAILED: 07/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _27 June 2003_.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-34_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-9, 13-15, and 19-34_ is/are rejected.

7)☐ Claim(s) _10-12 and 16-18_ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _7/26/04_.

4)☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Double Patenting

1.   Claims 1-34 of this application conflict with claims 1-29 of Application No. The nonstatutory double patenting rejection is based on a judicially created doctrine . grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2.   Claims 1-34 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-29 of copending Application No. 10/607,591. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: the claims of this application and '591 are not identical; however, it is clear that they are claiming the same subject matter, for example, see claim 3 and claim 17 of '591 in reference to claim

1 of the present application, see claim 18 in reference to claim 2 and 4 of the present

application and see claim 4 in reference to claim 7 and 8 of the present application.

Furthermore, there is no apparent reason why applicant would be prevented from

presenting claims corresponding to those of the instant application in the other

copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA

1968). See also MPEP § 804.

10/607,591. 37 CFR 1.78(b) provides that when two or more applications filed by the

same applicant contain conflicting claims, elimination of such claims from all but one

application may be required in the absence of good and sufficient reason for their

retention during pendency in more than one application. Applicant is required to either

cancel the conflicting claims from all but one application or maintain a clear line of

demarcation between the applications. See MPEP § 822.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 2-3, 6, 14-15, 27-28 are rejected under 35 U.S.C. 112, second paragraph,

as being indefinite for failing to particularly point out and distinctly claim the subject

matter which applicant regards as the invention. The claims contradict, for example,

what the selection is based on in its respective parent claim. Therefore, it is not clear

what is intended. The applicant should note that unclear features are not entitled

patentable weight; since, it would not be clear how the feature further modifies its parent

claim.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6.   Claims 1-9, and 13-15 and 19-34 are rejected under 35 U.S.C. 102(e) as being

anticipated by Ringseth et al. (6,625,804).

The applied reference has a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art

under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome

either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in

the reference was derived from the inventor of this application and is thus not the

invention "by another," or by an appropriate showing under 37 CFR 1.131.

Claims	Ringseth
1. A method of type-checking a programming language in a compiler according to one or more rule sets comprising:	see the title, abstract, col. 2 lines 13-18.
selecting one or more of the rule sets based upon the present stage of compilation; and	As an example of the rules, see "events" in col. 6 line 64-col. 7; line 6; since, rules are required for firing events. Also, see col. 13 lines 26-33.

type-checking the programming language
based on the selected one or more rule sets.

    "   "   "   "

2. The method of claim 1 wherein
selecting one or more of the rule sets is
based upon a characteristic of the
programming language rather than the
stage of compilation.

See the rejection of claim 1.

3. The method of claim 2 wherein the
characteristic of the programming
language describes the type system of the
language.

See the rejection of claim 1.

4. The method of claim 1 wherein type-
checking the programming language
comprises type-checking each of a
plurality of intermediate representations
of the programming language.

See col. 13 lines 49-56, col. 14
lines 33-37.

5. The method of claim 4 wherein the
selected one or more rule sets are
different for each representation.

See the protocol specific eventing
in claim 1 in col. 28-29.

6. The method of claim 4 wherein
selecting one or more of the rule sets is
based upon a characteristic of the
representation being type-checked
rather than the stage of compilation.

See the rejection of claim 4.

7. The method of claim 1 wherein the
programming language includes a type
that indicates an element of the
programming language can be one of a
plurality of types.

See again the protocol specific
eventing of claim 1.

8. The method of claim 7 wherein the
one or more rule sets contains rules for
type-checking a type that indicates an
element of the programming language
can be one of a plurality of types.

    "   "   "   "

9. The method of claim 1 wherein the
one or more rule sets comprise a

See the "tree" format in col. 14
lines 3-15.

plurality of rules in a hierarchical format.

Claims 13 and 14-15 are rejected as claim 1, 4 above.

As per claims 19, 21, and 32-34 see the rejection of claim 1.

In reference to claim 20, see col. 14 lines 25-32.

The features of claims 22-23 are taught via the protocol specific class

implementation and the event source class implementations in col. 14 lines 45-67.

Claims 24-31 are rejected as claim 4 above.

Allowable Subject Matter

7.   Claims 10-12, 16-18 are objected to as being dependent upon a rejected base

claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims. Note also unclear issues must

be resolved.

8.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to John Chavis whose telephone number is (571) 272-

3720. The examiner can normally be reached on M-Th, 7:30am-4:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Dam can be reached on (571) 272-3695. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

Jc

John Chavis
Primary Examiner AU-2191